IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 24723 of 2006(R)

PETITIONER:

KUNHI UNNEEN, S/O.MOHAMMED HAJI,
AGED 44 YEARS, URAKOTTAYIL HOUSE, VELLILA P.O.,
MANKADA, MALAPPURAM DT.,REP.BY HIS POWER OF
ATTORNEY HOLDER THENKAYATHIL MUHAMMED, S/O.UNNI-
POKKER HAJI, RESIDING AT THENKAYATHIL HOUSE,
VADAKKANGARA P.O.,MANKADA,MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

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1. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, KERALA STATE ELECTRICITY
BOARD, PULAMANTHOLE, MALAPPURAM DISTRICT.

2. THE ADDITIONAL DISTRICT MAGISTRATE,
MALAPPURAM.

3. P.K.ALAVIKUTTY, PLAMPADIYAN KONDAPPURATH
HOUSE, P.O.VELLILA, VIA MANKADA, MALAPPURAM DIST.

4. MOHAMMED HAJI, RESIDING AT
URANKOTTIL HOUSE, P.O.VELLILA, MANKADA,
MALAPPURAM DISTRICT.

5. P.K.ALAVI, RESIDING AT
POTTANKANDATHIL HOUSE, P.O. VELLILA,
MANKADA, MALAPPURAM DISTRICT.

R1 BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
SRI.P.SAMSUDIN
R3 BY SRI.DEVAPRASANTH.P.J.
R2 BY GOVERNMENT PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF PETITION SUBMITTED BY FIRST RESPONDENT BEFORE 2ND RESPONDENT.

EXT.P2 TRUE COPY OF STATEMENT FILED BY 3RD RESPONDENT IN PROCEEDINGS DATED 22.6.2005.

EXT.P3 TRUE COPY OF STATEMENT FILED BY THE 4TH RESPONDENT IN PROCEEDINGS DATED 16.1.2005.

EXT.P4 TRUE COPY OF THE REPORT AND SKETCH SUBMITTED BY THE TAHSILDAR BEFORE 2ND RESPONDENT DATED 10.2.2005.

EXT.P5 TRUE COPY OF THE OBJECTION SUBMITTED BY 3RD RESPONDENT IN PROCEEDINGS TO THE REPORT DATED 16.3.2005.

EXT.P6 TRUE COPY OF THE OBJECTION SUBMITTED BY 4TH RESPONDENT DATED 5.3.2005.

EXT.P7 TRUE COPY OF THE ADDITIONAL COUNTER AFFIDAVIT OF THE 2ND RESPONDENT DATED 18.5.2005.

EXT.P8 TRUE COPY OF THE PETITION OF THE 1ST RESPONDENT DATED 10.4.2005

EXT.P9 TRUE COPY OF THE NOTICE DATED 2.1.2006 ISSUED BY 2ND RESPONDENT.

EXT.P10 TRUE COPY OF THE JUDGMENT IN WPC NO.4872/2006 OF THIS COURT

EXT.P11 TRUE COPY OF THE PETITION SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT DATED 29.3.2006.

EXT.P12 TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE FIRST RESPONDENT DATED 26.11.2004.

EXT.P13 TRUE COPY OF THE COMMUNICATION ISSUED BY THE DISTRICT COLLECTOR DATED 7.12.2004 TO THE PETITIONER.

EXT.P14 TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE COUNSEL FOR THE PETITIONER BEFORE LOWER COURT DATED 8TH SEPTEMBER, 2006.

EXT.P15 TRUE COPY OF THE COVER SENT BY THE OFFICE OF THE 2ND RESPONDENT TO SRI.MOHAMMED HAJI

EXT.P16 TRUE COPY OF THE ORDER PASSED BY 2ND RESPONDENT DATED 29TH AUGUST, 2006

RESPONDENTS' EXHIBITS:

EXT.R2(A) TRUE COPY OF ROUGH SKETCH

/ TRUE COPY /

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 24723 of 2006

Dated this the 19th day of March, 2007.

JUDGMENT

The petitioner challenges Ext.P16 order of the Additional District Magistrate, Malappuram sanctioning drawing of electricity line through his property to give connection to the 5th respondent. Ext.R2(a) is the sketch showing the lie of the land and the route through which the line is proposed to be drawn. Going by that sketch, the route proposed is FGC. The portion from F to G will cut across the arecanut garden of the petitioner, it is submitted. So he has suggested an alternative route through ADEC. The third respondent submits that his property lies on both sides of the said route and in effect it will be cutting his property into two. Therefore, he opposes the proposal.

2. The Kerala State Electricity Board has filed a statement stating that FGC is the most feasible shortest route. For drawing that line 10 metres of overhead line and 34 metres of weather-proof line will be sufficient.

3. I think the line approved by the Additional District Magistrate will be causing least inconvenience, provided if it is ensured that the FG portion of the route is moved as far as possible to the boundary of

the petitioner. The learned counsel for the Kerala State Electricity Board also pointed out that there are several connections from the post F. If that be so, the post G be shifted as far as possible to the boundary of the petitioner so that crossing of his property is reduced to the minimum, if not reduced to nil. The Electricity Board shall ensure that the said portion of the route is moved as far as possible to the boundary of the petitioner so that minimum inconvenience is caused to the petitioner. If any additional expenditure is incurred for the same, needless to say the beneficiary will have to bear the same.

Writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
Judge.

vns.